

Legacy Ditch Company Legislation



**INTERIM WATER RESOURCES REVIEW
COMMITTEE**

SEPTEMBER 7, 2012

History



- **Initiation of Ditches (1860s)**
- **Adjudication Acts (1879) (1881)**
 - Ditches in various stages of completion
 - Silent on irrigated acreage, contained flow rate and ditch specs
 - “Statements of Claim”



Crossing the River Platte
Worthington Whittredge (1820-1910)

“the amount of land capable of irrigation by said ditch between the headgate and the reservoirs is 12,000 acres, and the amount of lands susceptible to being irrigated by the water of said ditch and said reservoirs lying North and North-west and North-east from said reservoirs is 28,000 acres, in addition thereto, in fact the amount is unlimited as it may continue to the eastern line of Colorado.”

History



- **Continuing Development (1880-1930)**
 - Financial Ups and Downs (1893)(1907)
 - Ditch extensions, multiple rights, joining of ditches
 - Increasing settlement (Homestead Act)
 - Build out – stabilized acreage



Jones Ditch And Burlington Ditch

- **Jones Ditch**

- 1867 Water Right
- Serves 700-900 acres
- Development to 900 acres by 1930
- Court: Intent of Jones 344 acres
- Result: Reduction of CU and service area



On the Cache La Poudre River, 1876
Worthington Whittredge (1820-1910)

- **Burlington Ditch Reservoir and Land Company**

- 1885 Water Right
- Burlington Ditch, delivery through Barr Lake 1909
- Court: Intent of Burlington appropriator limited to above Barr Lake
- Result: reduction of CU and service area

Impact



- **Uncertainty**
 - Permissible Irrigated Areas
 - Reliability for change purposes
 - Value: estate planning, business management
- **Prevents Ditch Wide Change in Use Cases**
 - Hinders flexibility, development of water rights markets, application of alternatives to dry-up
- **Creates potential for large scale re-quantification of Senior Rights**
 - 19th Century development levels

Proposed Solution



IF water right decreed prior to 1937 **AND** decree is silent on permissible acreage **THEN** all acreage within 50 years of decree is lawful.

- Recognize longstanding use
- Support senior rights holders, agricultural economies by 'grandfathering' usage made within 50 years of entry of decree
- Eliminate ad hoc determinations based on 'intent of appropriator'
- Restore certainty, support water rights markets